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BY ECF

Honorable Valerie E. Caproni
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

**Re: United States v. Kevin Johnson
15 Cr. 565 (VEC)**

Dear Judge Caproni:

We write to briefly respond to the Government's letter submitted today in response to our letter dated May 29, 2016. It was not our intention to submit further correspondence, but the Government's response is misleading, stating that "nowhere has the defendant alleged any basis for believing that the *source code* is not accurate." See Gov't Ltr. At 2. (additional emphasis added). This is not accurate.

As we have shown, FST has produced incongruous results, which have not been adequately explained – clear evidence of a problem with the program. Notably, this critical issue that relates to every other matter raised in our letter of May 29 is not cited in the Government's letter this morning. Although the Government might wish it so, the evidence of FST's malfunction must not be ignored. Further, it can only be adequately addressed by providing access to the source code.

For all of these reasons and those previously submitted, a subpoena for the source code should properly issue in accordance with Federal Rule of Criminal Procedure 17.

Respectfully submitted,

/s/

Christopher Flood
Assistant Federal Defender

cc: AUSA Jason Swergold
Kevin Johnson